IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14552 of 2004

Between:

G.Raja Rao S/o.Kotaiah, 45 years,
R/o. Sakhavaram Gram Panchayat, V.V.Palem Mandal,

Prakasam District.

...PETITIONER

AND

1. The District Panchayat Officer, Ongole, Prakasam District.
2. The Divisional Panchayat Officer, Kandukur Mandal, Prakasam District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature of a writ of mandamus or any other appropriate writ, direction, order or orders declaring the notice in Roc.No.1216/04 (PTI) A1 dated 07.08.2004 issued by the 1st respondent has wholly arbitrary, illegal, without jurisdiction and void.

Counsel for the Petitioner: MR.G.SUDHEER for MR.M.P.CHANDRAMOULI, Advocate.

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT.

The Court at the admission state made the following:

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ORDER:

The petitioner is the Sarpanch of Sakhavaram Gram Panchayat in Prakasam District. By impugned order in ROC.No.1216/04 (Pts) A1 dated 07.08.2004, the first respondent purporting to exercise power under Rule 42 (1) of the Rules and Notifications issued under the A.P.Panchayat Raj Act, 1994 made by the G.O.Ms.No.30, PR, RD & R., dated 20.01.1995 (hereafter called 'the Rules'), prohibited the petitioner from drawing General Funds/S.G.R.Y/E.F.C of the said Gram Panchayat. The petitioner was also given a show cause to explain for irregularities committed by him as mentioned in the annexure of the impugned order.

Sri G.Sudheer, learned counsel, representing Sri M.P.Chandramouli, learned counsel for the petitioner contends that the impugned order is based on a complaint given by the villagers, into which an enquiry was conducted by the Divisional Panchayat Officer, Kandukur behind back without notice to the petitioner and therefore, the exercise of power under Rule 42 (1) of the Rules by the first respondent is not proper. I am afraid I cannot agree the submission. Pending the final orders under Rule 42 (1) of the Rules, when the first respondent temporarily prohibited the petitioner from drawing Gram Panchayat funds, it is open to the petitioner to submit proper explanation to the impugned order/show cause notice and seek proper remedy before the first respondent under Rule 42 (2) of the Rules. The Sarpanch is given a right of appeal before the District Collector within seven (7) days from the date of receipt of a copy of this order. It is also open to the petitioner to file an appeal under Rule 42 (2) of the Rules. In this Writ Petition, especially having regard to the fact that the impugned order was issued by way of interim measure, no relief can be granted to the petitioner.

The Writ Petition, with the above observations, is dismissed.

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(V.V.S.RAO, J)

17th August 2004

RRB

Copy To:

1. The District Panchayat Officer, Ongole, Prakasam District.
2. The Divisional Panchayat Officer, Kandukur Mandal, Prakasam District.
3. The District Collector, Ongole, Prakasam District.
4. Two CCs to G.P. for Panchayat Raj & Rural Development, High Court Buildings, Hyderabad (OUT).
5. Two CD copies.